HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

Writ Appeal No.957 OF 2004

Between:

Smt. G.Venkatarathnam . . .Appellant

And

The Sub-Registrar,Malkajgiri,
Hyderabad and another. . . .Respondents

:: J U D G M E N T ::

Counsel for the appellant : Sri P. Srinivas

Counsel for respondent No.1 : Government Pleader for Revenue

Counsel for respondent No.2 : None.

13th July, 2007

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Per G.S.SINGHVI, CJ

This is an appeal for setting aside order dated 23-3-2004 passed by the learned Single Judge in Writ Petition No.5366 of 2004, whereby he rejected the appellant's prayer for issue of a mandamus to Sub-Registrar, Malkajgiri, Hyderabad (respondent No.1 herein) to cancel the registration of document dated 8-5-2002 executed by respondent No.2 - Sri G. Ram Reddy.

Respondent No.2 is the owner of plot bearing No.G-103(Part) (measuring 200 square yards), Block No.8, Survey No.318, Kamala Nagar, Kapra Municipality, Keesara Mandal, Ranga Reddy District. He executed a gift deed in favour of the appellant, which was registered on 20-11-1996. After five years and six months, respondent No.2 executed another document dated 8-5-2002, whereby he revoked the gift deed and got the same registered.

The appellant questioned the registration of cancellation deed in Writ Petition No.5366 of 2004. He pleaded that in the absence of any stipulation in the gift deed that the executor (respondent No.2) could revoke the same, the cancellation deed will be deemed to be nullity and respondent No.1 did not have the jurisdiction to register the same.

The learned Single Judge negatived the appellant's plea by observing that once a document is presented for registration, the concerned Sub-Registrar is duty bound to register the same and the scope of enquiry is limited as to the identity of the person executing the document. In the opinion of the learned Single Judge, the Sub-Registrar cannot enquire into the title of the property, which is subject matter of the document, and the only remedy available to the aggrieved person is to file civil suit.

We have heard learned counsel for the parties. The question whether the authority prescribed under the Registration Act, 1908 (for short, 'the 1908 Act') can refuse registration of cancellation deed is no

longer res integra insofar as this Court is concerned. In **Yanala Malleshwari v. Ananthula Sayamma**[1], a Full Bench of this Court (by majority) held that in the absence of any statutory provision, the Registering Authority cannot refuse to register the cancellation deed. Sri V.V.S. Rao, J. with whom Sri G. Chandraiah, J. agreed, after threadbare analysis of the provisions of the 1908 Act, Transfer of Property Act, 1882, Specific Relief Act, 1963 and other related provisions, held as under:

1) When the provisions of the Registration Act and Registration Rules elaborately deal with the circumstances and situations when the registering officer has to accept and register the documents, and/or as to when registering officer has to reject the documents for registration, it is not possible to hold as a general rule that whenever a cancellation deed is submitted, the registering officer is bound to reject the acceptance and registration of the same. Such interpretation would render Section 126 of TP Act (which enables the donor of a gift to cancel/revoke the same) ineffective. Secondly, there could be unimaginable number of circumstances when the executant himself on his own volition comes before the registering officer and desires to cancel the earlier document. As already pointed out supra, under Section 23-A of the Registration Act, the registering officer can re-register a document totally ignoring the earlier registration. Furthermore, under schedule 1-A to the Indian Stamp Act as amended by the Stamp (A.P.Amendment) Act, 1922, cancellation deed is one of the legal documents recognized in law and a transaction for transfer of immovable property, is no exception.

2) The person, who has *ex facie* right whether such right is registered or not can always approach the registering authority, with a request to cancel a sale deed, which was registered earlier by such registering authority by showing that subsequent registration was obtained by fraud by a person who is not entitled to transfer the property or that such transfer was registered by playing fraud on the owner or on the stranger. In the present statutory dispensation, namely Transfer of Property Act, Contract Act, Specific Relief Act and Registration Act, the Court does not see any prohibition operating on the exercise of inherent power by the registering authority to cancel the sale deed earlier registered, which is likely to cause prejudice to the true owner as well as to the entire public at large."

The majority of the Full Bench also held that a person, who is aggrieved by registration of the cancellation deed, can seek appropriate relief in the civil court and writ petition is not proper remedy.

It is neither the pleaded case of the appellant nor the learned counsel argued that the cancellation deed executed by respondent No.2 is vitiated due to fraud. Therefore, the learned Single Judge did not commit any error by refusing to entertain the appellant's prayer for quashing the registration of document i.e. cancellation deed and we do not see any reason to differ.

In the result, the appeal is dismissed.

As a sequel to dismissal of the appeal, WAMP.No.1725 of 2004 filed by the appellant for interim relief is also dismissed.

G.S.SINGHVI, C.J.

13th July, 2007

C.V.NAGARJUNA REDDY, J.

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[1] 2006 (6) ALD 623 (FB)